

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.705 (Log #OS033).

This proposed rule is to reflect Act 791 of the 1999 Regular Session, which amended R.S. 30:2025(E)(1)(a) and changed the civil penalty maximum daily cap from \$25,000 to \$27,500. Through Act 791 the civil penalty maximum daily cap was changed by 10 percent. This rule will revise the maximum civil penalty for violation of environmental law from \$25,000 to \$27,500 for each day of violation. The basis and rationale for this rule are to reflect the changes made to the maximum daily cap for penalties by Act 791 of the 1999 Regular Session of the Louisiana Legislature.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS033. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS033.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

TITLE 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures

Chapter 7. Penalties

§705. Penalty Determination Methodology

A. A penalty range for each penalty event is calculated based on the two violation-specific factors. The two violation-specific factors are plotted on the penalty matrix to determine a penalty range for a particular penalty event (see Table 1). The various penalty ranges for a penalty event are found inside each cell of the penalty matrix.

Table 1. PENALTY MATRIX				
DEGREE OF RISK/IMPACT TO HUMAN HEALTH OR PROPERTY	NATURE AND GRAVITY OF THE VIOLATION			
		Major	Moderate	Minor
	Major	\$25,000 27,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

(See Prior Text in A.1 - J)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025 and 2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

LOG #: OS033

Person

Preparing

Statement: Steve Sky-Peck Dept.: Environmental Quality

Phone: (225) 765-0399 Office: Office of the Secretary

Return

Rule

Address: P.O. Box 82178 Title: Civil Penalty Revision

LAC 33:I.705

Baton Rouge, LA 70884

Date Rule

Takes Effect: upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs or savings to state or local governmental units are expected as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections of state or local governmental units is anticipated. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive a 10% increase for those collected penalties.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Major violators of environmental law may be assessed a 10% increase in civil penalties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

Signature of Agency Head or Designee

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

James H. Brent, Ph.D., Assistant Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 10/05/92

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule will revise the maximum civil penalty for violation of environmental law from \$25,000 to \$27,500 for each day of violation.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

This rule is proposed in response to Act 791 of the 1999 Regular Legislative Session.

- C. Compliance with Act II of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, there will be no increase in the expenditure of funds.

2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ____ Yes. If yes, attach documentation.

(b) ____

No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?
There is no anticipated change in costs to implement the proposed action.

COSTS FY 99-00FY 00-01FY 01-02

PERSONAL SERVICES
OPERATING EXPENSES
PROFESSIONAL SERVICES

OTHER CHARGES

EQUIPMENT

TOTAL 0 0 0

MAJOR REPAIR & CONSTR.

POSITIONS(#)

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.
This is not applicable.
3. Sources of funding for implementing the proposed rule or rule change.
This is not applicable.

SOURCE FY 99-00FY 00-01FY 01-02

STATE GENERAL FUND
AGENCY SELF-GENERATED
DEDICATED
FEDERAL FUNDS
OTHER (Specify)

TOTAL 0 0 0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funding is necessary to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No implementation cost or savings to local governmental units are expected as a result of this rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No significant increase or decrease in revenues are expected with promulgation of this proposed rule. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive a 10% increase for those collected penalties.

REVENUE INCREASE/DECREASE	FY 99-00	FY 00-01	FY 01-02
STATE GENERAL FUND			
AGENCY SELF-GENERATED	Minimal Increase	Minimal Increase	Minimal Increase
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL			

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

An estimate of the number of future major environmental violations that warrant the maximum civil penalty is not feasible.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Major violators of environmental law may be assessed a 10% increase in civil penalties.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impact on receipts or income to directly affected persons is expected as a result of this rule.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No effect on competition and employment is expected as a result of this rule.